

UNITED STATES DISTRICT COURT

for the

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MAY 20 2022

CLERK, U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTAMICHAEL FIORETO
Petitioner

v.

Case No. 22-cv-1368 JRT/TNL

(Supplied by Clerk of Court)

WARDEN S. FIKES AND CEZJUNE
Respondent

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: MICHAEL FIORETO
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: FCE SANDSTONE
(b) Address: P.O. BOX 1000 SANDSTONE, MN 55072
(c) Your identification number: 00414 424
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: U.S. DISTRICT COURT
DISTRICT OF MINNESOTA
(b) Docket number of criminal case: 07-212
(c) Date of sentencing: JUNE 2007
☐ Being held on an immigration charge
☐ Other (explain): _____



Decision or Action You Are Challenging

5. What are you challenging in this petition:

☒ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)☐ Pretrial detention☐ Immigration detention☐ Detainer☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)☒ Disciplinary proceedings☐ Other (explain):

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: BOP(b) Docket number, case number, or opinion number: INCIDENT REPORT # ~~3594164~~(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): 3594164CHALLENGING DISCIPLINARY PROCEEDING LOSS OF GOOD TIME(d) Date of the decision or action: FEBRUARY 12, 2022 HEARING HELD**Your Earlier Challenges of the Decision or Action**7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: FCF SANDSTONE WARREN(2) Date of filing: 02-14-2022

(3) Docket number, case number, or opinion number:

(4) Result: STAFF REFUSED TO ACCEPT APPEAL(5) Date of result: N/A(6) Issues raised: WRONGLY FOUND GUILTY, DENIED ALL DUE PROCESS, STAFF DISPOSED OF EXCULATORY EVIDENCE BEFORE HEARING. ALSO REQUESTED EXEMPTION

(b) If you answered "No," explain why you did not appeal: _____

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. Third appeal

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes

☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☐ No

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- (4) Result: _____
 (5) Date of result: _____
 (6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☒ No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
 (b) Name of the authority, agency, or court: _____

 (c) Date of filing: _____
 (d) Docket number, case number, or opinion number: _____
 (e) Result: _____
 (f) Date of result: _____
 (g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: DENIAL OF Due Process

for ATTORNEY

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

SEE ATTACHMENT A

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO: VIOLATION OF THE ACCORD DOCTRINE

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

SEE ATTACHMENT B

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

GROUND THREE: THE ADMINISTRATIVE PROCEDURES ACT

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

SEE ATTACHMENT C

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: ISSUE AN ORDER TO EXMUNE
INDEMNIFY REPUT AND RESTORE GOOD TIME AM
DECLARATORY RELIEF, INJUNCTIVE RELIEF IF NECESSARY

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

MAY 10, 2022

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

MAY 9, 2022

Michael Fio

Signature of Petitioner

Signature of Attorney or other authorized person, if any